



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,033	10/04/2001	Eric M. Prophet	263/232	2874

34263 7590 03/05/2003

O'MELVENY & MEYERS
114 PACIFICA, SUITE 100
IRVINE, CA 92618

EXAMINER

DONOVAN, LINCOLN D

ART UNIT	PAPER NUMBER
----------	--------------

2832

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/972,033

Applicant(s)
Prophet

Examiner
Lincoln Donovan

Art Unit
2832



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Oct 4, 2001 is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 8 & 10 6) ☐ Other:

Art Unit: 2832

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first number of anchor legs having a greater strength and length than the second number of anchor legs, the anchor leg orientation along a first direction having a length that is at least twice the length of a second number of anchor legs and each anchor comprising a plurality of anchor legs with each anchor leg being attached at one end to the substrate and at the other end to the base must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2832

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman [Paper entitled "An Investigation of MEMS Anchor Design for Optimal Stiffness and Damping"].

Sherman discloses a MEMS anchor system [Appendix I] having a base portion with a width greater than a beam mounted thereon including at least two rows of anchors with legs for supporting the base.

Sherman disclose the instant claimed invention except for: the base being supported on a substrate.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a substrate as a support portion for the base to be anchored thereto for the purpose of enabling the switch to be used within a circuit.

Sherman discloses various anchor designs [pages 20-22] having differing strengths and sizes. The particular strength, size and number of the anchors used on the base portion would have been an obvious design consideration based on the expected number of cycles of the switch and the operating environment.

Sherman discloses the anchor system design securing a cantilever.

4. Claims 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman in view of Sun.

Sherman disclose the instant claimed invention except for: a plurality of base plates.

Sun discloses a MEMS switch assembly having a plurality of base plates [24].

Art Unit: 2832

It would have been obvious to one having ordinary skill in the art at the time the invention was made that the anchoring system of Sherman could have been used on a plurality of base plates in order to provide alternate switching systems.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Loo et al. [US 6,046,659] and Lin et al. [US 6,495,893].

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lincoln Donovan whose telephone number is (703) 308-3111.

The fax number for this Group is (703)-872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1782.

LDD

March 1, 2003


LINCOLN DONOVAN
PRIMARY EXAMINER
GROUP 2100